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FOR MYSORE STATE

REVENUE (195 ~~xxxx~~1950) Department.

MIS SERIES.

J.O. NO. 328.

Dated 6th February 1950.

[Despatch Abstract.]

TAX - The Madras General Sales Tax Rules, 1939 - Heading of column 2 in rule 6(4)(a) - Amendment - Notification - Published.

For Mysore State (Copy)

ABSTRACT.

TAX - The Madras General Sales Tax Rules, 1939 - Heading of column 2 in rule 6(4)(a) - Amendment - Notification - Published.

REVENUE DEPARTMENT.

G.O.MS.No.328. Dated 6th February 1950.
Read the following papers:-

G.O.No.906, Revenue, dated the 20th April 1948.
Govt. Memorandum No.25865 N/48-2, dated 24th June 1948.
Reference from the Board of Revenue, T.No.5698/48-3, dated the 29th November 1948.
Govt. Memorandum No.25865 N/48-3, dated 10th February 1949.
Reference from the Board of Revenue, T.No.5698/48-4, dated the 28th February 1949.
Govt. Memo.No.25865 N/48-5, dated the 23rd August 1949.
Reference from the Board of Revenue, T.No.5698/48-6, dated the 7th September 1949.
Govt. Memorandum No.25865 N/48-8, dated 11th November 1949.

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ORDER NO.328, REVENUE, DATED THE 6TH FEBRUARY 1950.

The appended notification will be published in the Fort St. George Gazette.

(By Order of His Excellency the Governor)

V.K. RAO,
DEPUTY SECRETARY TO GOVERNMENT.

To
The Board of Revenue (Commercial Taxes).
" The Deputy Commissioners of Commercial Taxes.
" All Commercial Tax Officers (with copies to the Deputy commercial Tax Officers and Assistant Commercial Tax Officers).
" The Legal Department.
" The Public Works (Information and Publicity) Department.
" The Superintendant, Government Press, for publication of notification.

/True copy/

M.V. Bhavalkar
SUPERINTENDENT.

APPENDIX.

Notification.

In exercise of the powers conferred by section 19 of the Madras General Sales Tax Act, 1939 (Madras Act IX) His Excellency the Governor of Madras hereby makes the following amendment to the Madras General Sales Tax Rules, 1939, published with Revenue Dept. NOTIFICATION No.819, dated the 12th September 1939, at page 6-10 of the Fort St. George Gazette. Extraordinary, dated the15th September 1939, as subsequently amended.

The amendment hereby made shall come into force on the 1st April 1950.

Amendment.

In rule6(4)(a) of the said rules, for the heading in the second column the following heading shall be substituted, namely:-

"If the turnover does not exceed Rs.20,000 per annum".

AVR.1-6.

Under Section 5 of the Act, no tax is leviable on the sale of certain commodities; the sale of certain other commodities is taxable only at one stage, the rate being the usual rate of 3 pies in some cases and a concessional rate in others. The benefit of exemption, taxation at a single point or taxation at a concessional rate can be claimed only if the dealer is in possession of the prescribed licence or licences Rule 6(4)(a) of the Madras General Sales-tax Rules lays down the licence fee payable by dealers in the commodities dealt with in Section 5. The licence fee payable depends on the turnover. In each case a lower licence fee is prescribed for turnovers between Rs.10,000/- and Rs.20,000/-.

2. This file is concerned with a dealer who has business in two or more such commodities with a total turnover exceeding Rs.10,000/-, the turnover in respect of each of such articles being less than Rs.10,000/-. The question to be settled is whether such a dealer should take out licences and if so, what the fee payable by him is

3. Since the total turnover of the dealer exceeds Rs.10,000/- it is clearly necessary for him to have a licence or licences in order that he may not be assessed to tax under Section 3 of the Act and that he may get the benefit of exemption, taxation at a single point or taxation at a concessional rate as the case may be. There is, however, no reference in rule6(4)(a) to the licence fee payable by a dealer whose turnover in respect of any of the articles in question is below Rs.10,000/-. It is possible perhaps to argue that such a dealer should be granted a licence for dealing in the articles in question without the levy of any fee. This however will result in loss of revenue to the Government.

4. The Board of Revenue was consulted for the its views on the subject. The Dy. Commissioners of C. Taxes drew attention to rule 6(4)(a) as it stood prior to amendment in 1948 and recommended that the heading of column 2 in rule 6(4)(a) should be altered and that the heading used in the old rule 6(4)(a) should be adopted. The Board did not, however, endorse this recommendation of the Dy. Commissioners because in its view, this resulted in injustice to dealers in these commodities with aggregated turnover of less than Rs.10,000/-. The Board suggests therefore that such a dealer may be called upon to take out licences for as many of such commodities as may be necessary so that the total turnover in respect of the remaining commodities is below the taxable minimum. The Board considers that for the grant of these licences, the fee mentioned in column 2 of rule 6(4)(a) should be charged. If there is any legal difficulty in levying these fees from such a dealer on the ground that the turnover in respect of each of such articles is below Rs.10,000/- the rules may suitably be amended.

5. To my mind, the recommendation of the Dy. Commissioners seems more reasonable. The Board's apprehension that this will lead to injustice to dealers with turnover of less than Rs.10,000/- seems to be baseless. If, for example there is a dealer in bullion and specie with a turnover of less than Rs.10,000/-, he cannot be asked to take a licence even if the heading in column 2 of rule 6(4)(a) is changed as suggested by the Deputy Commissioners. If a dealer who is not quite sure whether his turnover would exceed Rs.10,000/- or fall below that limit applies for a licence, he may be granted one. If, at the end of the year his turnover is actually found to be below Rs.10,000/-, the licence fee may be refunded. If the only objection to this course is that the Board had issued some instructions in 1945 that the licence fee should not be refunded in such cases, there is no serious difficulty. The Instructions may be cancelled.

V. K. R
26.7.49

G.O. No. 9916/49-1
5.9.49.

There is no legal objection to the proposals of the Deputy Secretary, Revenue, in paragraph 5 of his note above.

To D.S.

Please see the notes from page 13 ante.

2. The proposals in paragraph 5 of the Dy. Secretary's note at page 14 ante may be communicated to the Board of Revenue and its final views obtained subject to orders a draft memo is submitted for approval.

(Issued as Memo.No.25865 N/48-6, dated 23--8--1949)
From the Board of Revenue, Ref.T.5698/48-6, dated 7-9-49.

To D.S.

Please see the notes from page 13 ante, the memo. to the Bd. of Rev. at pages 9-10 c.f. and the Bd's reply at p.11 c.f. . .

2. The Bd. of Rev. has agreed to the recommendation of the Dy. Commissioner to change the present heading of Column 2 in rule 6(4)(a) of the Sales Tax Rules, as it stood prior to the amendment in 1948,(a) as follows: "If the turnover does not exceed Rs.20,000/- per annum". It has also agreed to cancel the instructions issued in B.P.Rt.3714 dated 18-8-45 regarding the refund of licence fee which stood in the way of changing the heading of column 2 in rule 6(4)(a) as stated above. The above proposals may be accepted. The amendment in question requires previous publication for a period of not less than four weeks Please see section 19(4) of the M.G. S.T. Act. The file may be sent to Finance and Legal for remarks before circulation.

Rev. U.O.
25865 N/48-7
26.9.49

P.T.O.

FIN.(ACCTS) DEPARTMENT.

Notes from page 13 above may be read. This Dept. may agree to the proposals of D.C. Rev. in para 5 of his note on p.14 above. The case may be passed on to Legal.

Fin. U.O. 36599/49-4
28.9.49

LEGAL DEPARTMENT.

This Department agrees with Revenue that the amendment to the heading in column 2 of rule 6(4)(of the Sales Tax Rules will require previous publication for a period of not less than four weeks under section 19(4) of the General Sales Tax Act.

Legal U.O. No. E
12551/49-1
7.10.49.

REVENUE DEPARTMENT (N)

Please see the notes from page 13 ante.

2. The file may now be circulated to H.M. (Fin) for orders whether the present heading of column 2 in rule 6(4)(a) of the Madras General Sales Tax Rules may be changed as "If the turnover does not exceed Rs.20,000/- per annum" the heading that stood prior to the amendment in 1948 - as recommended by the Dy. Commissioners of Commercial Taxes and accepted by the Board. The effect of this change is explained in para 5 of the note on page 14 ante.

/True Extract/

SUPERINTENDENT.

AVR.1-6.

Compared by
V. Ramadoss 2/6
V. M.R. Sarma